

# ANNEX 2

## ANNEX 2

### STATEMENT BY PATRICE VIDON REGARDING DETAILS OF EFFORTS TO REACH NON-SIGNING INVENTOR

I, Patrice Vidon, state as follows:

1. I am a French Patent & Trademark Attorney and am CEO of Cabinet Vidon, having an office at: Technopole Atalante, 16B, rue de Jouanet, BP 90333, F-35703 Rennes Cedex 7, France.

2. I represent Wavecom, having an office at: 3, Esplanade du Foncet, 92442 Issy-Les-Moulineaux Cedex, France.

3. Wavecom is the owner of U.S. Patent Application No. 10/589,542. At the time the subject matter of the above-identified patent application was conceived, the inventor, Nicolas Ibrahim was an employee of Wavecom. Since that time, Nicolas Ibrahim terminated employment with Wavecom and now refuses to cooperate with the patent application process regarding inventions previously made at Wavecom, including U.S. Patent Application No. 10/589,542.

4. Mr. Ibrahim currently resides at: 1, rue Bleuets, 78180 Montigny Le Bretonneux, France.

5. Enclosed with this statement is a copy of correspondence sent to Mr. Ibrahim's address in an attempt to obtain his signature on the declaration for completing U.S. Patent Application No. 10/589,542. The correspondence in Annex 2 includes the entire specification, including the claims, drawings and the declaration for the patent application. Specifically, enclosed are the following:

Annex 3:

- copy of the letter to Mr. Ibrahim dated October 4, 2006,
- copy of the proof of delivery, and
- English translation of this letter.

6. Nicolas Ibrahim failed to respond to the correspondence. Since the registered letters provide proof of delivery and since Mr. Ibrahim failed to respond in any way to this correspondence and numerous correspondence in other U.S. Patent Applications, such as 10/545,918 and 10/553,535, we have no choice but to conclude that Mr. Ibrahim's failure to respond constitutes a refusal to sign the application papers.

7. At the time the subject matter of the above-identified patent application was conceived, the second inventor, Dragan Vujcic was an employee of Wavecom. Since that time, Dragan Vujcic terminated employment with Wavecom and now refuses

to cooperate with the patent application process regarding inventions previously made at Wavecom, including U.S. Patent Application No. 10/589,542.

8. Mr. Vujcic currently resides at: 14, Passage du Chemin de Fer, 91400 Orsay, France.

9. Enclosed with this statement is a copy of correspondence sent to Mr. Vujcic's address in an attempt to obtain his signature on the declaration for completing U.S. Patent Application No. 10/589,542. The correspondence in Annex 3 and 5 includes the entire specification, including the claims, drawings and the declaration for the patent application. Specifically, enclosed are the following:

Annex 4:

- copy of the letter to Mr. Vujcic dated November 13, 2006, and
- English translation of this letter.

Annex 5:

- copy of the letter to Mr. Vujcic dated December 4, 2006, and
- English translation of this letter.

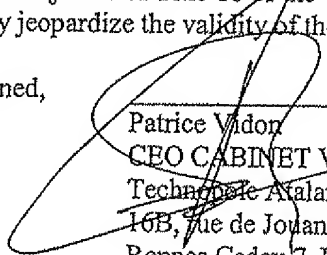
Annex 6:

- copy of the letter to Mr. Vujcic dated December 27, 2006,
- copy of the proof of delivery, and
- English translation of this letter.

10. For each correspondence, Dragan Vujcic failed to respond in any manner. Since the registered letters provide proof of delivery and since Mr. Vujcic failed to respond in any way to all letters, we have no choice but to conclude that Mr. Vujcic's failure to respond constitutes a refusal to sign the application papers.

11. I declare that all statements made herein that are of my own knowledge are true and that all statements that are made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under 18 U.S.C. §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signed,

  
Patrice Vidon  
CEO CABINET VIDON  
Technopole Atalante  
16B, rue de Jouanet, BP 90333, F-35703  
Rennes Cedex 7, France.

Date: September 10, 2007.

**RELATED FORMS TO FORM 1-5.1**

**Petition by Person Having Proprietary Interest to File Application on Behalf of Inventor(s) Who Refuse to Sign or Cannot Be Reached (37 C.F.R. § 1.47(b))**

**Form 1-5** Added Page to Combined Declaration and Power of Attorney for Signature by Person With Sufficient Proprietary Interest on Behalf of Nonsigning Inventor(s) Who Refuse(s) to Sign or Cannot be Reached (37 CFR 1.47(a))

**Form 1-6** Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor (37 CFR § 1.47)

Practitioner's Docket No. W51.12-0033**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Nicolas Ibrahim et al.

For: CELLULAR RADIOTELEPHONE SIGNAL PERMITTING SYNCHRONISATION OF A SUPPLEMENTARY CHANNEL BY MEANS OF A PRINCIPAL CHANNEL AND CORRESPONDING METHOD, TERMINAL AND BASE STATION

the specification of which:

(check and complete (a), (b), or (c))

- (a) ☐ is attached hereto.
- (b) ☒ was filed on 8/16/2006, as Application Serial No. 10 / 589,542 and was amended on 8/16/2006 (if applicable).
- (c) ☒ was described and claimed in International Application No. PCT/FR2005/000319 filed on 2/10/2005 and as amended on \_\_\_\_\_ (if any).

**STATEMENT OF FACTS IN SUPPORT OF FILING  
ON BEHALF OF NONSIGNING INVENTOR (37 C.F.R. § 1.47)**

**NOTE:** This statement as to the pertinent facts concerning the refusal of the nonsigning inventor to join in the application or where the omitted inventor cannot be found or reached must accompany the declaration signed on behalf of the omitted inventor by a joint inventor or by a legal representative who shows a proprietary interest. Where the entity with a proprietary interest executes the declaration on behalf of the omitted inventor there must also be a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage. 37 C.F.R. §§ 1.47(e) and (f).

**NOTE:** "The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as Internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions." MPEP, § 409.03(d), 8th Edition.

This statement is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of the declaration by the nonsigning inventor for the above-identified patent application before deposit thereof in the Patent and Trademark Office.

(check next item, if applicable)

- ☒ Because signing on behalf of the nonsigning inventor is by a person or entity showing a sufficient proprietary interest, this statement also recites facts as to why this action was necessary to preserve the rights of the parties or to prevent irreparable damage.

This statement is being made by the available person having first-hand knowledge of the facts recited therein.

**NOTE:** The statement "must be signed, where at all possible, by a person having first-hand knowledge of the facts recited therein." M.P.E.P. § 409.03(d), 8th ed. If different persons have first-hand knowledge of different facts, then a declaration from each such person as to those facts he or she knows should be submitted separately.

NOTE: Copies of documentary evidence, such as Internet searches, certified mail return receipt, cover letter of instructions, telegrams, etc., that support a finding that the nonsigning inventor could not be reached should be made part of the affidavit or declaration. It is important that the affidavit or declaration contain statements of fact as opposed to conclusions. M.P.E.P. § 409.03(d), 8th ed.

### IDENTIFICATION OF PERSON MAKING THIS STATEMENT OF FACTS

Patrice Vidon

Name

16B rue de Jouanet, BP 90333, 35703 Rennes Cedex 7, France

Address

### EFFORTS DURING CONVENTION YEAR TO PREPARE APPLICATION AND OBTAIN INVENTOR'S SIGNATURE

NOTE: In cases where priority under 35 U.S.C. § 119 is to be claimed, the 37 C.F.R. § 1.47 applicant should explain what efforts, if any, were made during the Convention year to prepare the application and obtain the inventor's signature thereon. The period allowed by the Convention year should "be sufficient for the preparation and deposit of an application . . . in the form required by the rules." . . . Accordingly, 37 C.F.R. § 1.47 may not be used "to save the parties from the consequences of their delay." M.P.E.P. § 409.03(d), 7th ed.

Applicants entered the U.S. through the PCT, not 35 U.S.C. § 119

(use Supplemental Page(s), if necessary)

(Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor [1-6]—page 2 of 7)

**LAST KNOWN ADDRESS OF THE NONSIGNING INVENTOR**

NOTE: MPEP, § 409.03(e), 8th Edition:

"An application filed pursuant to 37 CFR 1.47 must state the last known address of the nonsigning inventor.

"That address should be the last known address at which the inventor customarily receives mail. See MPEP § 605.03. Ordinarily, the last known address will be the last known residence of the nonsigning inventor.

"Inasmuch as a nonsigning inventor is notified that an application pursuant to 37 CFR 1.47 has been filed on his or her behalf, other addresses at which the nonsigning inventor may be reached should also be given."

Nicolas Ibrahim

Full name of nonsigning inventor

1, rue Bleuets

Last known address of nonsigning inventor

78180 Montigny le Bretonneux, France

NOTE: Ordinarily, the last known address will be the last known residence of the nonsigning inventor, but other addresses at which the nonsigning inventor may be reached should also be given in the space below. M.P.E.P. § 409.03(e), 6th ed.

Dragan Vujcic

Full name of nonsigning inventor

14, passage du Chemin de Fer

Last known address of nonsigning inventor

91400 Orsay, France

NOTE: Ordinarily, the last known address will be the last known residence of the nonsigning inventor, but other addresses at which the nonsigning inventor may be reached should also be given in the space below. M.P.E.P. § 409.03(e), 6th ed.

### **DETAILS OF EFFORTS TO REACH NONSIGNING INVENTOR**

**NOTE:** Complete either these facts or the facts as to REFUSAL OF NONSIGNING INVENTOR TO SIGN APPLICATION PAPERS or both, in applicable circumstances.

**NOTE:** "The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as Internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions." MPEP, § 409.03(d), 8th Edition.

See Attached Annex: 3,4,5 & 6

*(use Supplemental Page(s), if necessary)*

(Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor [1-6]—page 4 of 7)



**DETAILS OF REFUSAL OF NONSIGNING INVENTOR  
TO SIGN APPLICATION PAPERS**

**NOTE:** Complete either these facts or the facts as to **DETAILS OF EFFORTS TO REACH NONSIGNING INVENTOR** or both, in applicable circumstances.

**NOTE:** MPEP, § 409.03(d), 8th Edition:

*"A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 CFR 1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1955).*

*"Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.*

*"Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.*

*"When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition."*

See Annex 3, 4, 5 & 6

(use Supplemental Page(s), if necessary)

**PROOF OF NEED TO PREVENT IRREPARABLE DAMAGE  
OR PRESERVE THE RIGHTS OF THE PARTIES**

**NOTE:** *This proof must be presented where the declaration is signed by a person with sufficient proprietary interest for the nonsigning inventor (37 C.F.R. § 1.47(b)), but is not a requirement when the person signing for the nonsigning inventor is a joint inventor. (37 C.F.R. § 1.47(a)).*

*If a statutory bar is involved, the act or publication which is believed to constitute the bar should be identified. If a claim for priority is involved, the prior application or applications should be identified.*

*A diligent effort to prepare the application and obtain the inventor's signature thereon must be made, even if the application is being filed to avoid a bar or to claim priority. M.P.E.P. § 409.03(g), 7th ed.*

*Irreparable damage may be established by showing that a filing date is necessary to (1) avoid a statutory bar or (2) make a claim for priority, which should identify the prior application(s) involved.*

*Preservation of the rights of the parties may be demonstrated by a showing that the nonsigning inventor may reasonably be expected to enter into competition with the person having a proprietary interest and signing on behalf of the nonsigning inventor or that a firm plan for commercialization of the subject matter of the application has been adopted.*

*M.P.E.P. § 409.03(g), 7th ed.*

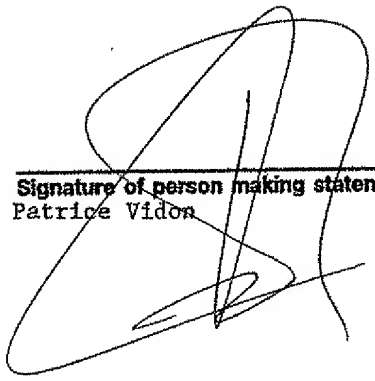
A filing date is necessary to make a claim for priority to  
PCT/FR2005/000319, filed February 10, 2005, which claims priority  
from French Application No. FR 04 01545, filed February 16, 2004

*(if this proof is not needed and not being presented,  
then draw a line through this page of the form.)*

*(use Supplemental Page(s), if necessary)*

(Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor [1-6]—page 6 of 7)

Date: September 20, 2007

  
\_\_\_\_\_  
Signature of person making statement  
Patrice Vidon

☐ Plus \_\_\_\_\_ Added Page(s)

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